IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 19350 of 2004(C)

PETITIONER:

SHEELA T.P., HEADMISTRESS,
KOTIYERI JUNIOR BASIC SCHOOL,
P.O.MOOZHIKARA, KANNUR DISTRICT.

BY ADV. SRI.M.VIJAYAKUMAR

RESPONDENTS:
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1. **STATE OF KERALA REPRESENTED BY**
   PRINCIPAL SECRETARY TO GOVERNMENT,
   GOVERNMENT SECRETARIAT, TRIVANDRUM.

2. **DIRECTOR OF PUBLIC INSTRUCTIONS,**
   TRIVANDRUM.

3. **THE ASSISTANT EDUCATIONAL OFFICER,**
   THALASSERY SOUTH, THALASSERY,
   KANNUR DISTRICT.

4. **THE DEPUTY DIRECTOR OF EDUCATION,**
   KANNUR.

BY GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007, ALONG WITH WPC NO. 39687 OF 2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO. 19350/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.SC-11/2001/KKD DT. 1.1.02 ISSUED BY THE 2ND RESPONDENT.

EXT.P2:- COPY OF THE ORDER G.O.(P) NO.162/04/GED DT. 12.1.04.

EXT.P3:- COPY OF THE COMMUNICATION ISSUED BY THE 3RD RESPONDENT DT. 11.11.02.

/TRUE COPY/

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KURIAN JOSEPH, J.

W.P. (C). NO. 19350 OF 2004

&

W.P. (C). NO. 39687 OF 2003

Dated this the 15th day of June, 2007.

J U D G M E N T

These writ petitions are filed by the Headmistress and former Assistant Educational Officer respectively aggrieved by the orders passed by the Director of Public Instruction directing the Deputy Director of Education concerned to fix the liability on the petitioners. The liability is by way of retention of teachers in an aided school on bogus admissions.

2. It is seen that the matter was pursued only by the Manager before the Government. The Headmistress has not taken up the issue either before the departmental authorities or before the Government.

3. The retired A.E.O unsuccessfully pursued a review before the Director of Public Instruction and thereafter has not gone to the Government. Since remedy by way of statutory revision is available to both parties, it is not necessary to go into the various contentions taken by the petitioners. It is significant in this context to note that the Manager has infact admitted before the Government that there were bogus admissions.

4. Whether the liability can be fastened on the Headmistress and the A.E.O (Retd) or whether the liability should be cast on the Manager are all questions to be considered by the Government. Such an opportunity would arise only if the Government is approached by the affected parties, namely Headmistress and the Assistant Educational Officer at the relevant time, who are the petitioners before this Court. Therefore, without expressing any opinion as to the merits of the case regarding the fastening of liability, these writ petitions are disposed of as follows.

In the event of the petitioners approaching the Government in revision within a period of one month from today, the same shall be treated to have been filed in time and thereafter appropriate orders in accordance with law in the matter will be passed with notice to the petitioners and the Manager within another four months, untramelled by the observations and findings in the impugned order already passed by the Government. Interim order passed by this Court will continue till such time.

KURIAN JOSEPH, JUDGE.

smp